

CAPE SOKOL GOODMAN SARACHAN PC  
ATTORNEYS AT LAW

September 9, 2004

Via Facsimile: (202) 219-3923  
and Via US Mail

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KENNETH J. ROTHMAN

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+ Fellow, American Academy  
of Matrimonial Lawyers

Ms. Kim C. Stevenson  
Federal Election Commission  
999 E Street, NW  
Washington, D.C. 20463

Re: MUR 5493  
Primary Respondent: Jeff Smith  
Friends of Jeff Smith

Dear Ms. Stevenson:

Neither Jeff Smith, Primary Respondent, nor the Friends of Jeff Smith Committee, are responsible for or affiliated with the documents and their distribution described in complaint MUR 5493 filed by the Russ Carnahan Campaign. As Brian Ponton's Affidavit explains, the assumption that a person volunteering in the Smith campaign was the Eric Lillard who may have had some responsibility for some of the documents was based on an innocent instance of mistaken identity.

Jeff Smith's Affidavit is a clear declaration that he was not involved in any of the alleged incidents, nor to the best of his knowledge and belief was anyone else affiliated with his campaign organization.

We believe these affidavits should suffice to bring the inquiry begun to a close with a finding that the complaint filed is unfounded. Nevertheless, we remain available to supply any further information you might require.

Sincerely yours,

Capes, Sokol, Goodman  
and Sarachan, P.C.

Daniel R. Sokol

Daniel R. Sokol

(by nkt)

DRS:SG:ab

Enclosed Brian Ponton Affidavit  
Enclosed Jeff Smith Affidavit

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL  
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**AFFIDAVIT**

State of Missouri     )  
                              )  
County of St. Louis    )     SS

**Jeffrey Smith, being first duly sworn, on his oath, states,**

**I am of sound mind, capable of making this Affidavit, and personally acquainted with the facts herein stated.**

**1. I, Jeffrey Smith, was born on [REDACTED], and reside at [REDACTED], St. Louis, Missouri 63105.**

**2. I was a candidate in the August 2004 Democratic Primary for Missouri's open seat in the Third (3<sup>rd</sup>) Congressional District.**

**3. My campaign committee was named the "Friends of Jeff Smith Committee."**

**4. I am not now, nor have I ever been acquainted with an individual by the name of Eric Lillard.**

**5. To the best of my knowledge, information or belief, no one by the name of Eric Lillard was in any way associated or affiliated with the Friends of Jeff Smith Committee nor any other group or organization under my control.**

**6. I have never had any contact or dealings with the company Web Expressions, Inc.**

**7. I have no knowledge about the creation or maintenance of the website "www.rustycarnahan.org." Nor do I have any knowledge about the domain name registration of this site.**

**8. I have no knowledge of who was responsible for the "MISS MORE WORK" mailing (Attachment A) referenced in the MUR #5493 complaint, nor who paid for the mailing.**

**9. Neither I, nor anyone in the Friends of Jeff Smith Committee, nor any other group or organization under my control, created or distributed the "RUSS CARNAHAN THE ABSENT**

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LEGISLATOR" document (Attachment E) referenced in the MUR #5493 complaint, during the press conference or at any other time.

10. Neither I, nor anyone in the Friends of Jeff Smith Committee, nor any other group or organization under my control, originated, printed, distributed, mailed, or financed either the "RUSS CARNAHAN: NO SHOW, NO GO!" document (Attachment F) or the "Why is Russ Carnahan Lying About his Record" document (Attachment G) referenced in the MUR #5493 complaint.

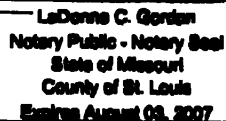
11 To the best of my knowledge and belief, no one who was part of the Friends of Jeff Smith Committee nor any other group or organization under my control participated in any manner in the creation, printing, copying, distribution, mailing, or financing of any of the documents referenced in the MUR #5493 complaint, nor do any one of them have any connection to the website referenced in the complaint.

  
Jeffrey Smith

Subscribed and sworn to before me this 8th day of September, 2004.

  
Notary Public

My Commission Expires:

\_\_\_\_\_  
  
LaDenna C. Gordon  
Notary Public - Notary Seal  
State of Missouri  
County of St. Louis  
Expires August 09, 2007

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**AFFIDAVIT**

State of Missouri     )  
                              )  
County of St. Louis    )     SS

**Brian Paul Ponton, being first duly sworn, on his oath, states,**

**I am of sound mind, capable of making this Affidavit, and personally acquainted with the facts herein stated.**

**1. I, Brian Paul Ponton, was born on [REDACTED], and reside at [REDACTED] [REDACTED] St. Louis, Missouri.**

**2. I recall answering a telephone call at Jeff Smith's congressional campaign headquarters, on July 23, 2004, at about 8:00 p.m. The caller asked for an "Eric Lillard."**

**3. I knew that a volunteer named "Eric" had recently joined Jeff Smith's congressional campaign (Friends of Jeff Smith Committee).**

**4. Upon hearing the caller ask for "Eric Lillard," I presumed that he meant the "Eric" who was staffing a desk and telephone in the headquarters office.**

**5. When I ascertained that "Eric" was not in the office, I responded to the caller by explaining that "Eric" was not in and offering to take a message.**

**6. The caller inquired as to whether "Eric Lillard" worked in the office. I responded in the affirmative.**

**7. My misstatement was a function of a good faith assumption that the "Eric" I knew to be associated with the campaign, was most likely the person to whom the caller referred.**

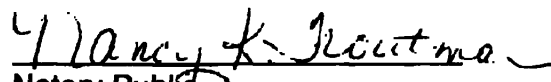
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8. I have subsequently learned that the last name of the "Eric" associated with Jeff Smith's congressional campaign, is "Morse," not "Lillard."

9. I do not know nor have I ever known any individual by the name of Eric Lillard.

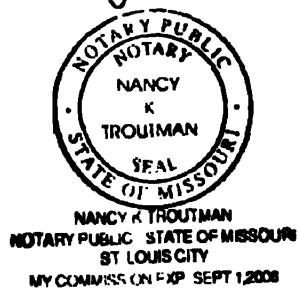
  
Brian Paul Ponton

Subscribed and sworn to before me this 9th day of September, 2004.

  
Notary Public

My Commission Expires:

9-1-2006



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